

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JOSEPH MILLER LANKFORD,

Petitioner,

v.

JAMIE MILLER, Superintendent, Snake
River Correctional Institution

Respondent.

No. 2:15-cv-01118-JE

OPINION AND ORDER

BAGGIO, J.,

On August 08, 2024, Magistrate Judge John Jelderks issued his Findings and Recommendation (“F&R”) [ECF 104], recommending that this Court deny Joseph Miller Lankford’s (“Petitioner’s”) Amended Petition for Writ of Habeas Corpus [ECF 90]. Further, Judge Jelderks recommends issuance of a Certificate of Appealability as to Petitioner’s preserved ineffective assistance of counsel claim stated as Ground One in the Amended Petition [90]. Petitioner objected [ECF 106] and Respondent responded [ECF 107]. This Court ADOPTS Judge Jelderks’s F&R [104].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. 28 U.S.C. § 636(b)(1)(B). If a party objects, the court “shall make a de

novo determination of those portions of the report or specified proposed findings or recommendation to which objection is made.” *Id.* § 636(b)(1)(C). The court is not, however, required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Ramos*, 65 F.4th 427, 433 (9th Cir. 2023). While the level of scrutiny that the court applies to its F&R review depends on whether a party has filed objections, the court is free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C); *see also Thomas*, 474 U.S. at 154.


The Court has carefully considered Petitioner’s objections and concludes that there is no basis to modify the F&R. The Court has also reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge’s F&R.

CONCLUSION

The Court ADOPTS Judge Jelderks’s Findings and Recommendation [104]. Therefore, Petitioner’s Amended Petition for Writ of Habeas Corpus [90] is DENIED. This case is dismissed with prejudice. Additionally, the Court issues a Certificate of Appealability as to Petitioner’s preserved ineffective assistance of counsel claim stated as Ground One in the Amended Petition.

IT IS SO ORDERED.

DATED this 6th day of September, 2024.



Amy M. Baggio
United States District Judge